

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MSC.SOFTWARE CORPORATION,

Plaintiff(s),

**CASE NUMBER: 07-12807
HONORABLE VICTORIA A. ROBERTS**

v.

**ALTAIR ENGINEERING, INC., MARC
KLINGER, ANDREA PERTOSA, STEPHAN
KOERNER, TOM RIEDEMAN, RAJIV RAMPALLI
MARK KRUEGER, and MICHAEL HOFFMAN,**

Defendant(s).

**ORDER ADOPTING SPECIAL MASTER HOLLAAR'S
REPORT AND RECOMMENDATIONS**

I. INTRODUCTION

Before the Court is Special Master Hollaar's Report and Recommendations (Doc. #438) regarding:

- (1) MSC's Motion to Require Production of Supplemental Repository and Development Materials (Doc. #395).
- (2) MSC's request in a document called Joint List of Matters Not Currently Before the Court Submitted Pursuant to Section 11 of the Order of June 4, 2009, (Doc. #302), for (a) functional copies of MotionView and MotionSolve 10.0 (b) release notes for MotionView and MotionSolve 10.0 and (c) a copy of the PerForce source code repository showing the development of MotionSolve and Motion Automotive through the release of 10.0.
- (3) MSC's objection to Special Master Hollaar's recommendation of March 2, 2009 (Doc. #280) that the Court deny MSC's request for the "flexbody source code" directories and repository data (Doc. #283).
- (4) MSC's objection to Magistrate Judge Majzoub's June 10, 2008 Opinion and Order Regarding Discovery (Doc. #169). MSC asks the Court to set aside the

portion of the June 10, 2008 Order that adopts the parties' Agreement Regarding Copying or Dissemination of Source Code (Doc. #235).

(5) Defendants' Joint Motion and Brief to Re-designate the Deposition of Vikram Sohoni (Doc. #397).

II. SPECIAL MASTER HOLLAAR'S RECOMMENDATIONS

A. The First Three Issues

Special Master Hollaar addresses the first three issues together. He says these issues are closely related; MSC essentially wants a current copy of Altair's Perforce repository and related material to supplement the copy Altair provided in September 2008. Special Master Hollaar recommends the Court DENY MSC's request.

B. Issue Number 4

Special Master Hollaar recommends the Court DENY MSC's objection to Magistrate Judge Majzoub's June 10, 2008 Order.

In addition, Special Master Hollaar WITHDREW his recommendation of September 9, 2008 that the Court issue an order superseding the source code order or agreement.

C. Issue Number 5

Special Master Hollaar recommends the Court re-designate Vikram Sohoni's entire deposition testimony from "Highly Confidential/Attorneys' Eyes Only" to "Confidential."

III. CONCLUSION

In an Order dated December 23, 2009, the Court said "Because Special Master Hollaar's role is similar to that of a Magistrate Judge, the Court finds LR 72.1(d) governs

objections to Special Master Hollaar's reports and recommendations." (Doc. #433).

LR 72.1(d)(2) imports Fed. R. Civ. P. 72: "A party must serve the magistrate judge and all parties with objections permitted by Fed. R. Civ. P. 72." Under Fed. R. Civ. P. 72, the parties had 14 days to file objections to Special Master Hollaar's R&R (filed on January 11, 2010). The 14th day was Friday, January 29, 2010. MSC did not file objections until February 1, 2010. Hence, MSC's objections (and amended objections) are **STRICKEN** as untimely.

Because no party filed timely objections to Special Master Hollaar's R&R, the Court **ADOPTS** Special Master Hollaar's recommendations.

IT IS ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: February 2, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on February 2, 2010.

s/Carol A. Pinegar

Deputy Clerk